

Lorenzo McGriff, 17A0545

Otisville Correctional Facility

P.O. Box 8

Otisville, New York

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

109 AUG 05 2021 ★

CASE NAME: McGriff v. Beardon

BROOKLYN OFFICE

CASE NUMBER: 1:21-cv-00703-AMD-LB

Judge: Ann M. Donnelly

DATE: August 2, 2021

Your Honor,

Please except my apologies to the Court for my error actually. The Court had a full record of my reply dated July 17, 2021, there was an extra copy of page (1).

Here enclosed is a second copy of petitioner's request for appointment of counsel. An the Traverse, dated July 17, 2021, is reply to respondent's reply to habeas corpus petition case No. 1:21-cv-00703-AMD-LB pending before this court,

Respectfully, etc.,

Lorenzo McGriff

cc - file  
me

Lorraine McGriff

1740545  
Otisville Correctional Facility  
PO Box 8  
Otisville NY 10963-0008

Case Name: McGriff v. Beardon

Case Number: 1:21-cv-00703-AMD-LB

Judge Amy M. Donnelly

Date 7/7/2021

Your Honor,

I am in receipt of your order dated 7/1/2021, in which you granted an extension of time for me (petitioner), to reply to the Respondent's, reply dated April 13, 2021, in the above-caption matter.

Here petitioner is requesting the appointment of counsel in the above-caption matter, due to the complexity of the legal and factual issues of my case.

I make my request out of the abundance of the "Interests of Justice", 18 USC § 3006A(a)(2)(B) 2006; Rules Governing § 2254 Cases Rules 6(a), 8(c) 28 USC 1st. & 2254(2006), See also *Reese v. Fulcomer*, 946 F. 2d 247, 263-64 (3rd Cir. 1991) (describing the factors the court should consider before appointment of counsel to an indigent habeas petitioner as (1) whether the habeas claim is frivolous;

(2) whether appointment of counsel will benefit the petitioner and court; (3) the complexity of the legal or factual issues in the case; and (4) the ability of petitioner to investigate facts and present claims). See, e.g., Battle v. Armontrout, 902 F.2d 701, 702 (8th Cir. 1990) (requiring appointment of counsel because the factual and legal issues were sufficiently complex and numerous; also finding that petitioner's ability to investigate the issues was significantly impaired by his imprisonment); United States ex rel. Jones v. Franzen, 676 F.2d 261, 267 (7th Cir. 1982) (appointing counsel for complex legal issues when allegations included withholding evidence, admission of co-defendant's statement and improper jury sequestration). Lemeshebo v. Wrons, 325 F. Supp. 2d 778 (E.D. Mich. 2004) (finding counsel should be appointed in a habeas action where prisoner "has made a colorable claim, but lacks the means to adequately investigate, prepare, or present the 'claim'").

The Rules Governing § 2254 Cases  
Rule 8(c), 28 USC Fol. § 2254 (2006)  
require a court to appoint a lawyer  
if the court decides to hold a  
hearing to investigate the facts  
of a petitioner's case. See, United  
States v. Duarte-Higareda, 68 F.3d  
369, 370 (9th Cir. 1995) (finding  
court appointment of counsel man-  
datory when evidentiary hearing are  
required for habeas petition under  
28 USC § 2254).

### Conclusion

For all the aforementioned reasons,  
Petitioner request for appointment  
of counsel in protection of the  
Habeas Corpus Petition Before this  
Court Should Be Granted.

Respectfully Submitted  
Lorenzo McGriff

## Certificate of Service

I hereby certify that on July 7th, 2021, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District was served upon the following party:

Eric Gonzalez

District Attorney

Kings County

360 Jay Street

Brooklyn, NY 11201